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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/083,260

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Mark Alan Winkler

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EXAMINER

FISHER, MICHAEL J

ART UNIT

PAPER NUMBER

3629

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/083,260

Applicant(s)

WINKLER ET AL.

Examiner

Michael J. Fisher

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 15 is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. 'Calculating operational cost savings' to be projected, critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). There is no way to determine how to calculate cost savings from reading either the claims or the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9,10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9 and 10 include the limitations, "Windows CE compatible" and "Palm compatible". It is improper to use registered names of products as the maker of the product could change the product and thus, render the scope of the claims unclear and indefinite.

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Note: For examination purposes, it will be assumed that "Windows CE compatible" is 'computer operating system compatible' while "Palm compatible" is 'portable computing device compatible'.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2,7-11,13-24,33-35,37-42 and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by US PAT 6,429,773 to Schuyler.

As to claims 1,33, Schuyler discloses a production database (fig 8) that receives data (fig 1), via a network (23), information concerning at least one, physical characteristic of a plurality of tires (fig 5, tire air pressure) of a fleet (col 2, lines 20-22), an information management server accessing the data for processing (fig 8), with web pages (inherent in that Schuyler discloses using the Internet to access the information, col 2, lines 40-45 and col 2, lines 33-36), Schuyler discloses allowing "thin clients" to access the system, (thin clients are those who subscribe to the service as best seen in fig 8 "garage subscribes to service").

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As to claim 39, the data is uploaded to the server (fig 1) and is on a "computer readable medium" as the system is performed by computers.

As to claims 2, Schuyler discloses authenticating the user (col 4, lines 16-19).

As to claims 17,32 Schuyler discloses launching an Internet browser application to perform these steps (fig 1).

As to claims 7,23,24, Schuyler discloses a portable computing device storing at least a portion of the fleet tire information which is synchronized via the server (col 11, lines 4-8).

As to claims 8, Schuyler discloses using the computing device to enter data (fig 7).

As to claims 9, the device is inherently computer operating system compatible as it is a computing device.

As to claim 10, as Schuyler discloses a portable, computing device, it is inherent that the system is compatible with one.

As to claim 11, the synchronization occurs when the computing device connects to the service.

As to claim 13, Schuyler discloses a graphical illustration of the vehicle (fig 5).

As to claim 14, Schuyler does not name his systems, however, Schuyler does disclose a function "OLAP" system and a "RDBMS" system to analyze and respond to queries (fig 8), anything received via the Internet is inherently available for downloading and printing as receiving information over the Internet is "downloading" and any data a computer receives can be printed.

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As to claim 15, as best understood, Schuyler discloses reporting projected savings (via promotions sent to the vehicle owner, as best seen in fig 8).

As to claim 18, Schuyler discloses requesting and receiving information (fig 2).

As to claims 19,20,34, it would be inherent that the request contains information identifying a particular fleet or dealer else the customer would receive non-pertinent information.

As to claim 21, Schuyler discloses requesting a particular report (fig 2).

As to claims 22,35, fleet information is submitted, (fig 1) and stored (fig 8) is used for a summary report (41, as best seen in fig 2).

As to claim 37, anything received via the Internet is inherently downloading as receiving information over the Internet is "downloading".

As to claim 38, it would be inherent that a fleet profile is created as the system is shown to be used for multiple fleets (col 6, lines 2-8).

As to claim 40, the information is transmitted via the Internet.

As to claim 41, as Schuyler discloses authentication (as previously discussed), there would inherently be "information entry fields" that would pertain to a particular fleet (that which the user is 'authenticated' to peruse) and the profile information is stored at the local database (fig 1).

As to claims 41,16, Schuyler discloses a graphical illustration of the vehicle (fig 5).

As to claim 42, Schuyler discloses receiving a particular report (fig 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3-6, 12, 25-32, 36 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuyler.

Schuyler discloses a method and system as discussed above.

As to claim 3, Schuyler discloses various "skins" which are changed depending on the client's preferences (col 6, lines 28-44), it would have been obvious to one of ordinary skill in the art to allow the "skins" to be in the language preferred by the client to allow for the system to be used in multiple countries in the language preferred in each country by each customer.

As to claim 4, Schuyler discloses knowing the various localities of the fleets to track those facilities which would be closest (col 9, line 54- col 10, line 2), therefore, it would have been obvious to one of ordinary skill in the art to further use regional

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databases with locality information to decrease the amount of information stored in each database in order to make them more easily searchable.

As to claim 5, the Internet is a global network, thereby meeting the limitations as claimed.

As to claim 6, it would be obvious to one of ordinary skill in the art to have a regional server containing the regional database to ease costs.

As to claims 12 and 43, voice recognition software is old and well known and therefore, it would have been obvious to use voice recognition software to allow the system to be more flexible and easy to use for people who prefer such software, especially as Schuyler discloses various "skins" for customizing to the customer's preferences.

As to claim 25, it is old and well known to print reports, therefore, it would have been obvious to one of ordinary skill in the art to print the report to provide a hard-copy in case of computer failure.

As to claim 26, Schuyler does not specifically mention entering physical inspection of individual tires. It would have been obvious to one of ordinary skill in the art to allow the user to upload inspection data on tires to allow the system to contain more accurate information.

As to claim 27, it is old and well known to print reports, therefore, it would have been obvious to one of ordinary skill in the art to print the report to provide a hard-copy in case of computer failure.

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As to claim 28, the information is uploaded using the portable computing device (as previously discussed).

As to claim 29, Schuyler does not specifically mention storing the data at the management server. It would have been obvious to one of ordinary skill in the art to store the data at the management server as the information is shown to pass through the server to be provide and this would centrally retain a copy of the report in case of dispute with the customer.

As to claim 30, anything received via the Internet is inherently downloading as receiving information over the Internet is "downloading".

As to claims 31,43, voice recognition software is old and well known and therefore, it would have been obvious to use voice recognition software to allow the system to be more flexible and easy to use for people who prefer such software, especially as Schuyler discloses various "skins" for customizing to the customer's preferences.

As to claim 32, Schuyler discloses a graphical illustration of the vehicle (fig 5).

As to claim 36, Schuyler does not specifically mention storing the data at the management server. It would have been obvious to one of ordinary skill in the art to store the data at the management server as the information is shown to pass through the server to be provide and this would centrally retain a copy of the report in case of dispute with the customer.

Conclusion

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US PAT 6,662,091 to Wilson et al. discloses a method of tracking the conditions of the tires of a fleet using the Internet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Fisher whose telephone number is 571-272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MF 
2/20/07

Michael Fisher



GAU 3629